

# EXCLUSIVELY FOR CONTRACTORS

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## Umbrella Offers No Protection

Contranet, an umbrella company based in Birmingham and specialising in IT Contractors has gone into administration.

Contractors were charged at rates varying between £1000 and £2500 per annum and about 100 Contractors have been affected.

We have never liked umbrella companies for the following reasons:-

- The savings that they offer are illusory.
- It seems dangerous for us for any individual to allow his or her hard earned money to be merged with that of many other people. The reason for this is now only too apparent from what has happened to Contranet.
- Many Contractors have joined umbrella arrangements because they are under the impression that this will protect them from coming within IR35. This is incorrect.

So, you can select whatever reason you like from the above but we suggest that you leave umbrella companies well alone.

## DATA PROTECTION ACT – WARNING!

It costs businesses £35, on which no VAT is payable, to register under the Data Protection Act. Many business are being inundated by companies who are writing to them with very official looking letters which give the strong impression that the forms must be completed and returned with a cheque for £95 + VAT.

This is a scam and complaints have already been made to the Trading Standards Office. The names used by the various companies are:

- Data Protection Act Registration Service
- Data Protection Agency Services Limited
- Data Protection Registration Agency
- Data Collection Enforcement Agency
- Data Registration Agency

- DPA Registration Agency
- Data Protection Act Registration Agency

It is possible that other names are being used as well,- Data Protection Agency Services Limited is the company that approached us and if you do receive any correspondence then we suggest that you send it to your local Trading Standards Office.

## WHEN WILL AGENCY WORKERS BE EMPLOYEES?

The contradiction between the IR35 legislation which effectively imposes an employee status on computer contractors and the absence of any rights to employment protection was highlighted again in a recent case.

Esso took on contract workers through an employment agency. The workers had their rates set by Esso, worked alongside Esso employees and in all respects were under the control of Esso but were paid by the agency. Interestingly, they even received bonuses from Esso! Given the way that rulings are going it was not surprising that the Employment Tribunal decided that they were employees of Esso and could therefore claim unfair dismissal. This was overturned on appeal because the individuals concerned did not have a direct contract with Esso.

How long can the Government have their cake and eat it,- on the one hand collecting tax under the IR35 procedures but on the other denying the same people employment rights? Our forecast is,- not much longer!

## IT'S STILL LOOKING GOOD FOR CONTRACTORS!

Another survey coming this time from the organisation representing Employment Agencies has found that demand for temporary staff has revived sharply over the last six months.

Job advertising which had hit the buffers some time ago is picking up and contractor agencies, in particular, are getting busier.

## 35% SAY NO THANK YOU!

This is obviously the month to report on recent surveys although this one is rather depressing in its content. It seems hard to believe but apparently 35% of contractors (or at least those who responded to the poll) have done absolutely nothing about IR35. It hardly seems possible that after the plethora of publicity that this can really be the case but according to an on-line survey carried out by NamesFacesPlaces that is the situation. The explanation seems to be that contractors assumed that the legislation would be repealed and so have just done nothing about it.

## MEDICAL INSURANCE, IS IT WORTH IT?

Just about everybody reading this article will at some time or other have been in employment. One of the big perks provided by employers is medical insurance. However when people leave to start up on their own there are a lot of demands on finance and medical insurance is quite often something which is ignored. After all you are probably young, healthy and those life threatening events or expensive operations are a long way off.

If you do not have medical cover then we suggest that you have a look at what is currently available. It is not just Bupa and PPP that provide cover. There are at least a dozen companies who are active in the market and reputable. The cost of cover varies depending on where you live and like most forms of insurance if you are prepared to accept a higher excess then the premium will be lower. One company has just introduced a policy with an extremely high excess. This is aimed at people who are really seeking protection against a major operation which may be required.

Everybody has heard of a friend who is faced with a two year waiting list if they need a 'non-urgent' operation done on the National Health service but private insurance will probably make that operation available in a week or two. Certainly access to Consultants is immediate.

Why not take a look at one or two websites and compare the costs. You need to be careful about exclusions because it does seem that the health providers are tightening up on what they will pay out on. We don't recommend any particular provider but Exeter Care seems to come up well in the surveys and could be worth looking at.

## IR35 – TEST CASES

There will soon be some test cases heard before the Commissioners of Inland Revenue which will help Contractors and their advisors to assess not only the legal interpretation of contracts that they have ie. will they fall

inside or outside IR35, but will provide an insight into how hard the Inland Revenue will be pushing the legislation. They have as we know met enormous resistance from a resourceful and intelligent group of people and it is pretty clear that the Government didn't anticipate quite the strength of feeling that there would be when they sneaked through the IR35 legislation.

One very tricky area is that as Contractors move around from contract to contract, to be absolutely sure that their new contact will fall outside IR35 it will be necessary to obtain a new ruling. The Inland Revenue have been disgracefully slow in providing these rulings and unless the system is changed the actual operation of the legislation will still be a shambles.

As we have been saying for many months, the only certain way for Contractors to defeat IR35 short of a repeal of the legislation which is unlikely (!) then they and their various lobby groups (and that includes us) need to persuade employers to adopt more flexible contracts and working practices. One other point that we have been referring to frequently is that the contract is not the be all and end all of the problem and its solution,- it is the way that the contract is performed. It is very clear from experience that we have in other industry sectors that the Inland Revenue are looking much closer at the actual operation of the business and looking behind the contract into the way that it is performed is something that we can expect.

## BIG BROTHER GETS BIGGER!

In recent newsletters we have reported on the much more aggressive stance being taken by the Inland Revenue and Customs and Excise in their dealings with tax payers. There is obviously no coincidence here as the Government now plans that confidential data contained in the Customs and Excise and Inland Revenue databanks will be shared with other Government departments. Tony Blair has backed proposals that the records at benefits office, the DVLA and the passport services should all be capable of being accessed by all Government departments.

Although it is difficult to object to systems being improved so that they prevent benefit and tax fraud and also which facilitate criminal investigations, we are left with the uncomfortable feeling that before long nobody will have any secrets!

## THOUGHT FOR THE MONTH!

A bus station is where a bus stops,  
A train station is where a train stops,  
On my desk I have a work station ...!

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